



ADVOCATES for the WEST
Public Interest Environmental Law

March 16, 2005

Via Certified Mail, Return Receipt Requested

Atlanta Gold Corporation of America, Inc.
Attn: Patrick J. Maley
1509 Tyrell Lane, Suite B
Boise, ID 83706

Monarch Greenback, LLC
c/o A.H. Burroughs III, Registered Agent
702 W. Idaho St., Suite 810
Boise, ID 83702

Dale Bosworth, Chief
United States Forest Service
P.O. Box 96090
Washington, D.C. 20090-6090

**RE: Notice of Intent To Sue Over Clean Water Act Violations At
Talache/Level 900 Adit**

Dear Sirs:

I am writing on behalf of my client, Idaho Conservation League (hereafter, "Plaintiff"), to advise you of Plaintiff's intent to sue and seek injunctive relief in federal court, with respect to past and ongoing violations of the Clean Water Act at the Talache/Level 900 adit. This site is located along Montezuma Creek near Atlanta, Idaho (43°, 47', 25.9" N, 115°, 6', 34.5" W).

Atlanta Gold Corporation of America, Inc. ("Atlanta Gold"), as operator and lessee and/or owner of the Talache/Level 900 Adit and related mining claims, and Monarch Greenback, LLC ("Monarch"), as owner and/or lessor of the Talache/Level 900 Adit and related mining claims, have violated and continue to violate the Clean Water Act, 33 U.S.C. § 1301 et seq., by discharging pollutants and fill material to waters of the United States, without any Clean Water Act permit. Likewise, the United States Forest Service as owner of the facilities and sites in question, is jointly responsible for identical violations.

Specifically, Atlanta Gold, Monarch, and the Forest Service have committed and continue to commit violations of the Clean Water Act by discharging arsenic, iron, and other pollutants conveyed by the Talache/Level 900 Adit, and the associated settling pond for such Adit, to

Notice of Intent to Sue
Page 2

Montezuma Creek, without a permit issued under Clean Water Act § 402. These violations continue on a daily basis.

Montezuma Creek is tributary to the Middle Fork Boise River, which provides habitat for threatened bull trout, and also provides municipal, domestic, agricultural, and industrial water supplies for Idaho's major population centers in the Treasure Valley.

Sections 301(a), 402, and 404 of the Clean Water Act make it unlawful for **any** person, including federal agencies, to discharge a pollutant to the waters of the United States, unless the person has obtained and complies with the terms and requirements of a valid NPDES and/or Section 404 permit, depending on the nature of the discharge. Discharging pollutants to waters of the United States in violation of the Clean Water Act permit requirements subjects the violator to civil and/or criminal liability. 33 U.S.C. § 1319.

The Clean Water Act authorizes citizen enforcement actions "against any person . . . who is alleged to be in violation of an effluent standard or limitation under this chapter," see 33 U.S.C. § 1365(a)(1), which includes discharges without a valid permit. See 33 U.S.C. § 1365(f) (defining "effluent standard or limitation" as including violations of CWA Section 301(a) and permit requirements); City of Milwaukee v. Illinois, 451 U.S. 304, 310-11 (1981) ("it is illegal to discharge pollutants into the Nation's waters except pursuant to permit"). In addition to injunctive and other relief, which may be imposed against all Defendants, penalties of up to \$27,500 per day per violation (for violations before March 15, 2004) and \$32,500 per day per violation (for more recent violations) may be imposed against Atlanta Gold and Monarch for violating the Clean Water Act. 33 U.S.C. § 1319(d); 69 Fed.Reg. 7121 (Feb.13, 2004). This letter constitutes notice of Plaintiff's intent to sue, as required under 33 U.S.C. § 1365(b).

As the U.S. Supreme Court and other courts have held, one of the principal purposes of the notice requirement in the Clean Water Act is to allow the parties to discuss resolution of claims short of litigation. Plaintiff is sending this notice letter, in part, to encourage settlement negotiations which could avoid the need for litigation. We would be happy to discuss possible settlement arrangements with you, if you wish. Indeed, my clients wish to emphasize their interest in finding creative solutions to this conflict in order to halt and prevent environmental harm and threats to public health, including through the installation of water treatment systems at this site.

Additionally, should you have any facts, documents or other information which you believe might bear upon the alleged violations set forth in this letter, you should provide those to us now in order to avoid unnecessary litigation.

Please do not hesitate to contact me at the address and phone listed on our letterhead, if you wish to discuss these matters further or if I can answer any questions. Alternatively, you may contact John Robison at the Idaho Conservation League, PO Box 844, Boise ID 83701, phone: 208-345-6933.

Notice of Intent to Sue
Page 3

Sincerely,



William M. Eddie
Attorneys for Plaintiff

cc:

Doug Gochnour
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Idaho City, ID 83631

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Governor Dirk Kempthorne
Idaho State Capital
Boise, ID 83702

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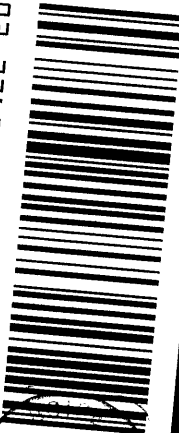
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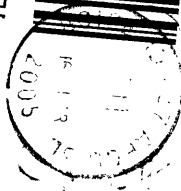


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